

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

JOANNE PARISI, individually and as)
Executrix of the Estate of LEONARDO)
PARISI)
Plaintiff)
)
v.) CIVIL ACTION NO. 05-10007-WGY
)
JOHN GRIBBEN, M.D.)
Defendant)

**PLAINTIFF'S MOTION TO TRANSFER THE CASE TO SUFFOLK SUPERIOR
COURT FOR THE PURPOSE OF A MEDICAL MALPRACTICE TRIBUNAL
AND
TO OPEN DISCOVERY PENDING THE MEDICAL MALPRACTICE TRIBUNAL**

NOW COMES THE PLAINTIFF, and moves this honorable Court for an order opening discovery pending the results of the medical malpractice tribunal.

PROCEDURAL HISTORY

This is a case alleging medical negligence, filed in the United States District Court for Massachusetts on January 3, 2005. The defendant answered on March 21, 2005.

On June 8, 2005, the defendant made a motion to transfer the case to the Suffolk Superior Court for the purpose of a medical malpractice tribunal, as required by Massachusetts law.

The Court allowed the defendant's motion to transfer the case on June 24, 2005.

Per Federal rules of civil procedure, this Court held a scheduling conference on September 8, 2005, at which time Judge Mark Wolf ordered the case stayed pending the results of the medical tribunal.

**MOTION TO TRANSFER THE CASE TO SUFFOLK SUPERIOR COURT FOR THE
PURPOSE OF A MEDICAL MALPRACTICE TRIBUNAL**

As of the time of this motion, it appears the case file has not been transferred to the Suffolk Superior Court. A civil party search of the Suffolk Superior Court docket shows no action pending under the name of either the plaintiff or the defendant.

The plaintiff moves this Court for a renewed order transferring the file to the Suffolk Superior Court for the purpose of a medical malpractice tribunal, as required by Massachusetts law.

MOTION TO OPEN DISCOVERY PENDING THE MEDICAL MALPRACTICE TRIBUNAL

In light of the passage of time, the Plaintiff moves this Court for an order commencing discovery pending the results of the medical malpractice tribunal.

This Court first approved the defendant's motion to transfer the case to the Suffolk Superior Court approximately one year ago. The Suffolk Superior Court to this date has no record of receiving the case.

It is the experience of plaintiff's counsel that it can take 3-6 months for the Superior Court to schedule a tribunal, depending on the specialty of the physician defendant, among other factors.

At this point, the case has been in suit for 18 months without any discovery taking place. The events on which the plaintiff's complaint is based took place in 2003.

In the interest of preserving the testimony of the parties and other witnesses before the passage of time clouds the facts in memory, the plaintiff requests that this Court allow discovery to proceed pending the results of the medical malpractice tribunal, on a schedule agreed by the parties and approved by the Court.

Respectfully submitted,
The plaintiff,
by her attorney,

/S/ Barry D. Lang
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